

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,  
*Plaintiff,*

**NOTICE OF MOTION**

v.

DAVID RUBEL,  
*Defendants.*

Case No: 20-cr-00195(JLS)(JJM)

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S I R S :

PLEASE TAKE NOTICE that upon the annexed affidavit Herbert L. Greenman, Esq., the undersigned moves this Court for an Order extending the time within which the defense must file motions for reasons set forth in the affidavit annexed hereto and made a part hereof together with such other and further relief as to this Court may deem just and proper.

DATED: Buffalo, New York  
July 26, 2021

Respectfully submitted,

/s/Herbert L. Greenman

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HERBERT L. GREENMAN, ESQ.  
LIPSITZ GREEN SCIME  
CAMBRIA, LLP  
Counsel for Defendant  
DAVID RUBEL  
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TO: LAURA HIGGINS, ESQ.  
ASSISTANT UNITED STATES ATTORNEY  
138 Delaware Ave.  
Buffalo, NY 14202

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,  
Plaintiff,

v.

DAVID RUBEL

Defendants.

**AFFIDAVIT**  
Case #20-cr-00195(JLS)(JJM)

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STATE OF NEW YORK                    )  
COUNTY OF ERIE                    SS:  
CITY OF BUFFALO                    )

HERBERT L. GREENMAN, Esq. being duly sworn deposes and says:

1. I am an attorney for the defendant David Rubel.
2. By order of United States Magistrate Judge Jeremiah J. McCarthy motions are scheduled to be filed by Tuesday, July 27, 2021.
3. As we have indicated previously, the defense and the government have been engaged in extended plea negotiations. The government has tendered a plea to the defense. However, there still exists one final issue which the parties are attempting to resolve. I expect that I will be meeting within the next two weeks with a supervisor from the United States Attorney's Office in an attempt to resolve the outstanding issue.
4. The government has maintained that if the defense files pretrial motions the plea that has been offered to this point may not be extended in the future. As a consequence, I am asking for a 3 week extension of time within to file the motions. I believe that will provide me with enough time to meet with the appropriate supervisor at the United States Attorney's Office in a final attempt to resolve these issues.

5. . We have been provided with the Plea Agreement. However, we have made a number of proposals to the Plea Agreement. It will take some time but we believe that this matter will be resolved by a pretrial change of plea proceeding.

6. We believe that 3 weeks would give the parties enough time to either resolve the plea issues.

7. Assistant United States Laura Higgins has advised that she has no objection to this request. Additionally, the parties agree that the speedy trial time should be excluded on the basis that the interest of the defendant and the community in a speedy disposition of this case is outweighed by this request.

WHEREFORE, your deponent prays that this Court rule accordingly.

DATED: July 26, 2021  
Buffalo, New York

Respectfully submitted,

/s/Herbert L. Greenman

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HERBERT L. GREENMAN, ESQ.  
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Sworn to before me this 26<sup>th</sup> day  
Of July, 2021

/s/Elizabeth M. Jagord-Ward

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Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires October 31, 2022